

Application No. : 09/901,240  
Filed : 07/09/2001

**Remarks:**

**Claim Rejections – 35 USC § 112**

The Final Office Action mailed April 24, 2003, ("Office Action") rejected "claims 1-20 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification"... Specifically, the Office Action asserted that the claimed subject matter "*the boundaries not being drawn in advance of the playing of the game*" as previously recited in each of the independent claims "is not supported in the original filed specification." Applicant respectfully traverses this rejection, which, as will be demonstrated below, is inconsistent with a reading of the specification.

The specifications establishes, for example, that:

"By building a basic reactor, a player defines an area of influence surrounding the reactor. That is, the actual area of influence and the resulting resource collection potential are dynamically defined in response to a player's action. An area of influence is not established in advance of play." [Page 8, lines 17-20.]

Thus, the FIGS of the specification which illustrate a game in progress implementing area-based resource collection can be expected to show that the boundaries of the areas of influence are drawn as the game progresses and not in advance of the playing of the game. This is precisely the case. With respect to FIG. 1, a diagram of a game in progress showing boundaries of areas of influence (121, 122, 123), the specification explicitly describes that "the actual areas of influence 121-123 from which resources may be collected by the player where defined by the player's placement of the resource collecting structures 111-113." [Page 11, lines 19-22.]

FIG. 2 is a diagram of a subsequent stage of the same game "illustrating the impact of the actions of a second player". [Page 4, lines 30-31.] Fig. 2 illustrates three new areas 141, 142, 143, the boundaries which are drawn in direct response to the second player playing of the game. The boundaries were not drawn in FIG. 1, which illustrates the game at a stage prior to the second player playing of the game. Obviously, the boundaries of the areas (141, 142, 143) were not drawn in advance of the playing of the game.

Similarly, "FIG. 3 is a diagram of an RTS game in progress implementing area-based resource collection. The diagram depicts four stages of the game played, descending in

chronological order.” [Page 14, lines 11-13.] FIG. 3 and the detailed description beginning at page 14, line 11, clearly illustrate and describe “*the boundaries not drawn in advance of the playing of the game*”.

Independent claim 1 has been amended to call for “*defining, in direct response to an action of a player playing of a game, boundaries of an area, the boundaries not drawn in advance of the playing of the game*”. The other independent claims have been similarly amended.

Accordingly, claims 1-20 contain subject matter which is described in the specification. Thus, the rejection under 35 U.S.C. § 112, first paragraph, is unwarranted and should be withdrawn.

#### **Claim Objections – Informalities**

The Office Action objected to the phrase “*may be*” in claims 4, 8, and 9. Claims 4-9, 12, 17, and 18 have been amended to replace the phrase “*may be*” with the term “*are*”. It is believed that the correction overcomes the informalities objections. Therefore, since claims 4, 8, 9 and 12-20 were only rejected under 35 USC § 112 and objected to as to informalities, it is believed that at least these claims are now in condition for allowance.

#### **Claim Rejections – 35 USC § 102(b)**

The Office Action rejected claims 1-2, 5-7, 10, and 11, under 35 USC 102(b) as being anticipated by Cordry et al. U.S. patent number 4,687,206 (“Cordry”).

In its rejection, the Office Action asserted that Cordry anticipates “*the boundaries not being drawn in advance of the playing of the game (col 7, ll. 61-68 onto col. 8 l. 1)*”. This is factually incorrect. Cordry’s “Global Domination Board Game” shows territories that are drawn and preprinted on a board in advance of the playing of the game. The cited paragraph only explains how players select territories, the boundaries of which are preprinted on the board. Cordry does not have any capabilities for, does not anticipate or render obvious, “*defining, in direct response to an action of a player playing of a game, boundaries of an area, the boundaries not drawn in advance of the playing of the game*” as is being presently claimed. All the boundaries in Cordry are drawn in advance of the playing of the game.

Therefore, the rejection of claims 1-2, 5-7, 10, and 11, under 35 U.S.C. § 102(b) is unwarranted and should be withdrawn.

Each of the other Office Action assertions are equally factually inaccurate. For example,

with respect to dependent claim 2, the Office Action asserts that in Cordry "the boundaries of the area define a volume as seen in figures 1-2." Merriam-Webster's Collegiate Dictionary defines a volume as "an amount of space occupied by a three-dimensional object". The surface of Cordry's "Global Domination Board Game" is an abstracted two-dimensional map. There is no volume illustrated. More importantly, the Office Action ignores reading the dependent claim limitation in the context of the independent claim. In that context, the amount of resources that are acquired are responsive to the boundaries of a volume. Just how do the territories in Cordry define a volume from which resources are acquired? Cordry does not anticipate the methodology being claimed. Therefore, in particular, the rejection of claim 2 under 35 U.S.C. § 102(b) is unwarranted and should be withdrawn.

Further, while the Office Action rejected dependent claims 5, 6, 7, 10, and 11, under 35 U.S.C. § 102(b), the Office Action did not provide any explanation, reference, or support. Applicant does not know, for example, how Cordry anticipates "*the amount of resources that are acquired is further responsive to a distance to, and a magnitude of, a means for the acquisition of resources*" as dependent claim 7 calls for. Applicant does not know why the claims were rejected.

Therefore, in particular, the rejection of claims 5, 6, 7, 10, and 11, under 35 U.S.C. § 102(b) is unwarranted and should be withdrawn.

#### Claim Rejections – 35 USC § 103

The Office Action rejected claim 3 under 35 USC 103(a) as being unpatentable over Cordry in view of Swift U.S. patent number 5,971,395 ("Swift"). The Office Action asserts that "Swift teaches the steps of defining boundaries of a second area 134 overlapping a portion of a first defined area 30 (col. 5, ll. 6-19 and (col. 4, ll.15018)."

Swift's 134 is not an area it is a wall. Further, its function of interfering with movement ("The game piece 16 may not move through a wall 134, 136", does not anticipate "*a second area overlapping a portion of a first defined area*", as was previously claimed.

Still further, if in fact there was a motivation to utilize Swift's teachings onto the invention of Cordry, Swift's wall 134 would interfere with movement from one region to the other. The combination would not have any relevancy to, and would not render obvious, the subject matter being claimed.

Nonetheless, the claim is now amended to call for "*a second area enabling an acquisition*

*of resources and overlapping a portion of a first defined area."* Nothing in Swift anticipates or renders obvious such structure or methodology.

Therefore, the rejection of claim 3, under 35 U.S.C. § 103(a) is moot, unwarranted and should be withdrawn.

### Conclusion

Thus, each of the outstanding claims 1-20 recite useful, novel, nonobvious, and enabled inventions, clearly described in the specification, that offer advantages not anticipated or rendered obvious by Cordry, Swift alone or in combination. Therefore, it is believed that the outstanding claims are in condition for allowance, which action is respectfully solicited.

By the above amendments and response, applicant has attempted to diligently respond to each of the principal issues raised by the Office Action. If a particular assertion or remark in the Office Action is deemed not to be directly or indirectly addressed, it should not be interpreted as indicating agreement with such an assertion or remark. For purposes of presentation, applicant's remarks have been provided in as simple a manner as possible, and do not embody the richness or breadth of the specification of the present inventions. Attention has been drawn to some but not all of the patentably distinguishing features, results, and advantages. Nothing stated or unstated in the remarks should be construed, interpreted, or understood as limiting, or otherwise constraining the scope of the specifications or claims of any of applicant's inventions.

Respectfully submitted,



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July 21 2003